

Notice of Allowability

Application No.

10/674,633

Examiner

Ryan R. Yang

Applicant(s)

WORTHINGTON, JOHN W.

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 7/19/2007.
2. ☒ The allowed claim(s) is/are 1-51.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Ryan Yang
7/31/07
RYAN YANG
PRIMARY EXAMINER

REMARKS

Claims 1-34 were pending at the time of the Office Action. Claims 35-51 are new claims. Claims 13 and 29 are amended in this response. No new matter is added. Claims 1-51 are pending at this time. Claims 1, 17, and 35 are independent claims. Re-consideration and allowance of the above-referenced application are respectfully requested.

Claims 1-34 stand rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter. Claims 17-32 and 34 stand rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the enablement requirement. The rejections are respectfully traversed.

Claim 1 recites, "receiving user input specifying a warping tool, the warping tool having a tool perimeter having a shape and a size, the warping tool having one or more associated tool vectors, each of the tool vectors originating at a mesh point defined by a tool mesh associated with the warping tool, the user input specifying one or more of the shape of the tool perimeter, the tool mesh, and the associated tool vectors, wherein the tool perimeter defines a region of influence for the warping tool; receiving user input moving the warping tool within an image; applying the warping tool, in response to user input, to the image; and modifying one or more distortion vectors for the image in response to the application of the warping tool, the one or more distortion vectors being within the region of influence when the warping tool is applied, the one or more distortion vectors being modified based at least in part on the one or more tool vectors." (Emphasis added).

The Office Action contends that a computer-implemented method described as a computer program is not a process. See, e.g., Office Action, page 3, paragraph 1. This contention cannot be supported. It is respectfully submitted that a method is a process. Further, it is respectfully submitted that a "computer-implemented method" is well recognized by the patent office as a process, and not as non-statutory functional descriptive material.

Further, the Office Action contends that claim 1 allegedly fails the "useful, concrete, and tangible result" test. This contention cannot be supported. Claim 1 relates to receiving user input specifying a warping tool, receiving user input moving the warping tool, applying the warping tool, and modifying one or more distortion vectors for the image in response to the

application of the warping tool. Image warping is a useful application that is prevalent in the image processing industry. Applying the warping tool and modifying one or more distortion vectors in response to receiving user input specifying and moving the warping tool produces output. For example, when the user drags a warping tool within an image defining an envelope, a warping effect is created. Such output is both concrete and tangible. Thus, it is respectfully submitted that the features recited in claim 1 satisfy the "useful, concrete, and tangible result" requirement of 35 USC 101, and are, therefore, patentable. Thus, the rejections of claims 1-34 under 35 USC 101 should be withdrawn. Accordingly, claim 1 should be allowable. Claims 2-16 and 33 should also be allowable at least for similar reasons and for the additional recitations that they contain.

Claim 17 recites, "receive user input specifying a warping tool, the warping tool having a tool perimeter having a shape and a size, the warping tool having one or more associated tool vectors, each of the tool vectors originating at a mesh point defined by a tool mesh associated with the warping tool, the user input specifying one or more of the shape of the tool perimeter, the tool mesh, and the associated tool vectors, wherein the tool perimeter defines a region of influence for the warping tool; receive user input moving the warping tool within an image; apply the warping tool, in response to user input, to the image; and modify one or more distortion vectors for the image in response to the application of the warping tool, the one or more distortion vectors being within the region of influence when the warping tool is applied, the one or more distortion vectors being modified based at least in part on the one or more tool vectors." (Emphasis added).

Claim 17 should be allowable at least for reasons similar to claim 1. Also, the preamble of claim 17 recites "A computer program product tangibly embodied in a computer readable medium, the computer program product comprising instructions operable to cause data processing equipment to." Thus, the computer program product is tangibly embodied in a computer readable medium. Further, the recitations of claim 17 define structural and functional interrelationships between data structure and other claimed aspects, thereby permitting the data structure's functionality to be realized. Therefore, the features of claimed 17 are not descriptive material *per se*. See, e.g., MPEP, 2106.01.I. Claim 17 should be allowable for these additional

reasons. Claims 18-32 and 34 should also be allowable at least for similar reasons and for the additional recitations that they contain.

Further, the Office Action states, "It is not clear how a product can be tangibly embodied in a computer-readable medium." See, Office Action, page 3, paragraph 5. This statement cannot be supported. It is respectfully submitted that the Specification enables one skilled in the art to make and use the claimed subject matter and that, based on the Specification (see, e.g., Specification, page 13, line 27 - page 14, line 9), one skilled in the art can understand how a computer program product can be tangibly embodied in a computer-readable medium. For example, it is quite common for software products to be sold on compact discs, which are computer program products tangibly embodied in a computer-readable medium. Therefore, the rejections of claims 17-32 and 34, under 35 USC 112, first paragraph, should be withdrawn.

Examiner Yang is thanked for a courtesy of a telephone interview conducted on July 19, 2007, with Applicant's representative, Mr. Sushil Shrinivasan. In the interview, the Applicant's representative discussed the rejections under 35 USC 101 and 35 USC 112 and presented reasons, similar to the reasons discussed above. Examiner Yang agreed to consider the Applicant's representative's reasons.

Claim 35 recites, "a processor; a display device operatively coupled to the processor; and a computer-readable medium, tangibly storing a computer program product, the computer program product comprising instructions to cause the processor to: receive user input specifying a warping tool, the warping tool having a tool perimeter having a shape and a size, the warping tool having one or more associated tool vectors, each of the tool vectors originating at a mesh point defined by a tool mesh associated with the warping tool, the user input specifying one or more of the shape of the tool perimeter, the tool mesh, and the associated tool vectors, wherein the tool perimeter defines a region of influence for the warping tool; receive user input moving the warping tool within an image; apply the warping tool, in response to user input, to the image; and modify one or more distortion vectors for the image in response to the application of the warping tool, the one or more distortion vectors being within the region of influence when the warping tool is applied, the one or more distortion vectors being modified based at least in part on the one or more tool vectors." (Emphasis added).

Applicant : John W. Worthington
Serial No. : 10/674,633
Filed : September 29, 2003
Page : 14 of 14

Attorney's Docket No.: 07844-600001 / P553

Claim 35 should be allowable at least for reasons similar to claim 17. Claims 36-51 should also be allowable at least for similar reasons and for the additional recitations that they contain.

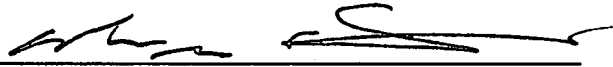
CONCLUSION

In view of the amendments and remarks herein, the Applicant believes that claims 1-51 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claims or other claims.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: July 19, 2007



William E. Hunter
Reg. No. 47,671

Customer No. 21876
Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099